IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION
WRIT PETITION NO.376 OF 2005

Indianoil Reserved Categories & Minorities
Employees Association & Ors.
Head Office Marketing Unit
Through its General Secretary,
Indian Oil Bhavan, G-9,
Ali Yawar Jung Marg, Bandra (East),
Mumbai-51 ...Petitioners.

V/s.

Union of India & Ors.
Though the Secretary,
Ministry of Labour,
New Delhi- 110 001 ...Respondents.

Mr.D.S.Sapkale for the Petitioners.

Mr.R.C.Master with Mr.S.S.Sarkar for the Respondents no.1 to 3.

Mr.Madhu Rai i/b Negandhi Shah & Himayatulla for Respondents no.4 to 8.

CORAM: B.H.MARLAPALLE &
N.H.PATIL, JJ.
DATE : 14th September, 2006.

P.C.:

1. We have heard the learned counsel for the Petitioners who challenge the communication dated 14.8.03 declining to make the reference of industrial dispute, by the Ministry of Labour, Government of India.

2. The dispute between the parties is regarding condition no.4 set out in circular no.3/2001 dated 15.1.2001. The said condition reads as under:

> "Workmen who desire to be considered for promotion should be willing to go out of Mumbai and accept posting to any field location. A written undertaking to this effect is to be given in the application."

3. The Union contends before us that other three conditions set out in the circular are the existing service rules as well as settlements between the parties whereas, the above quoted condition no.4 has been incorporated illegally. It is further contended that furnishing undertaking to accept transfer on promotion cannot be a requirement to decide eligibility of Grade - VI workmen for being promoted to A Grade officer. At the same time, Union clarifies that it is not against such promotee officers being transferred on promotion. What is challenged is seeking undertaking for deciding eligibility for promotion and if undertaking is not furnished , the workmen are being treated as ineligible for promotion.

4. We have noted down the declaration made before us by the petitioners union that it is not against the

transfer of the workmen who are promoted to A Grade officer and by noting down this declaration, we dispose off the petition with the direction to respondents to consider candidature of workmen in Grade - VI for promotion to A Grade officer without demanding undertaking but at the same time, it’s right to transfer such A Grade officer is noway affected by deletion of condition of undertaking. This order is confined only to respondent nos.4 to 8.

(N.H.PATIL,J.) **(B.H.MARLAPALLE,J.)**